

**VICTIM COMPENSATION PROGRAM  
PRECEDENT DECISION SUMMARY  
CHAPTER 5: INDEMNIFICATION OF PRIVATE CITIZENS  
GOVERNMENT CODE SECTIONS 13950, et seq  
(with applicable statutory provisions)**

The California Victim Compensation and Government Claims Board has adopted 22 precedent decisions under the Victim Compensation Program. Those decisions should be relied upon as legal authority and guidance for interpreting and implementing the Victim Compensation Statute.

The following is an excerpt of the statutory provisions addressed in the precedent decisions, followed by a brief summary of the decisions interpreting those provisions of statute.

**I.  
ATTORNEY'S FEES**

**Government Code § 13957.7(g) (effective 1-1-03)**

*The board shall pay attorney's fees representing the reasonable value of legal services rendered to the applicant, in an amount equal to 10 percent of the amount of the award, or five hundred dollars (\$500), whichever is less for each victim and each derivative victim. An attorney receiving fees from another source may waive the right to receive fees under this section. Payments under this section shall be in addition to any amount authorized or ordered under subdivision (d) of Section 13969.1.*

**Government Code § 13965(d) (repealed 12-31-02)**

*The board shall pay attorney's fees representing the reasonable value of legal services rendered to the applicant, in an amount equal to 10 percent of the amount of the award, or five hundred dollars (\$500), whichever is less for each victim and each derivative victim. An attorney receiving fees from another source may waive the right to receive fees under this section. Payments under this section shall be in addition to any amount authorized or ordered under subdivision (d) of Section 13969.1.*

**A. Decided under Government Code § 13965(d)  
Pro-per applicant who is also an attorney not entitled to attorney's fees:**

An applicant who is also an attorney who represented herself is not entitled to attorney's fees under Government Code § 13965(d). An attorney-applicant does not "render" legal services to himself or herself and does not spend more time or more valuable time than does any other self-represented applicant.

*Precedent Decision 98-01, adopted 10/20/98.*

**II.**  
**BURDEN OF PROOF**

**Government Code § 13959(c) (effective 1-1-03)**

*At the hearing, the applicant shall have the burden of establishing by a preponderance of the evidence that, as a direct result of a crime, the victim or derivative victim incurred an injury that resulted in a pecuniary loss.*

**Government Code § 13963(c) (repealed 12-31-02)**

*At the hearing, the applicant shall have the burden of establishing by a preponderance of the evidence that, as a direct result of a crime, the victim or derivative victim incurred an injury that resulted in a pecuniary loss.*

**A. Decided under Government Code § 13963(c)**  
**Approval may be based on crime other than that identified in the application:**

Although there was insufficient evidence that the crime identified in the application occurred, the application may be approved if it is determined that the victim is a victim of a qualifying crime even if it is not the crime for which the application was submitted.

*Precedent Decision No. 01-01, adopted 7/13/01.*

**B. Decided under Government Code § 13963(c)**  
**Series of crimes or suspicious circumstances:**

The application yielded evidence of a series of suspicious circumstances in which the minor exhibited sexual behavior or bore evidence of minor injuries. Although none of these instances standing alone provided sufficient evidence of a qualifying crime, the totality of the evidence was sufficient to support a finding that the minor had been the victim of a qualifying crime.

*Precedent Decision No. 01-01, adopted 7/13/01.*

**C. Decided under Government Code § 13963(c)**  
**Applicant's failure to testify a bar to program eligibility:**

The applicant did not testify at the hearing nor did she offer any witnesses to testify on her behalf. Since the applicant was unwilling to testify at the hearing, the hearing officer was unable to ask questions to clarify discrepancies in her previous written communications or to judge her credibility. The result was that she did not meet her burden of proof that she suffered pecuniary loss as a direct result of a crime.

*Precedent Decision No. 01-03, adopted 8/10/01.*

**D. Decided under Government Code § 13963(c)  
Evidence of a crime requires more than unsubstantiated reports:**

Minor was removed from her biological mother before her third birthday and was adopted approximately two years later. The adoptive mother testified that they never knew exactly what had happened to the minor. Evidence offered included unsubstantiated reports of molestation, reports of minor's behavior, memories and disclosures. No evidence of physical or sexual abuse as set forth in the Board's regulations at § 654.2 was submitted, nor did the evidence rise to the level of that typically available to the Board to support an application based on sexual abuse of a child. However, the child's history and surrounding facts both explains the absence of additional evidence and supports the finding that the child is the victim of a crime.

*Precedent Decision No 02-01, adopted 10/25/02.*

**E. Decided under Government Code § 13963(c)  
Exposure to methamphetamines in utero absent proof of injury:**

Application for child exposed to methamphetamines in utero had no detectable presence of illicit drugs in her system either at birth or at anytime prior to the closing of the administrative record and experienced no drug related physical injuries, was denied for insufficient evidence of physical injury or threat of physical injury. The decision distinguished a prior precedent decision of the Board, 01-10, M.S., applicant on behalf of A.A. (minor), where the Board found eligible a child who was born with serious physical injuries, and who was found to have illicit drugs in her system at birth.

*Precedent Decision No 03-01, adopted 3/20/03.*

**F. Decided under Government Code § 13963(c)  
Reimbursement of chiropractic expenses:**

Compensation for chiropractic treatment are historically limited to six months in duration unless extenuating circumstances exist that would warrant extending that period. Regardless, reimbursement requires that treatment be medically necessary as a direct result of the qualifying crime.

*Precedent Decision No. 04-01, adopted 2/27/04.*

**G. Decided under Government Code § 13964(c) and (d)  
Board bears burden of proving failure to cooperate with law enforcement:**

Staff's repeated attempts to contact the investigating officer without success coupled with the applicant's apparently truthful testimony resulted in insufficient evidence to meet the Board's burden of proving that the applicant failed to cooperate with law enforcement.

*Precedent Decision No. 01-04, adopted 8/10/01.*

**H. Decided under Government Code § 13963(c)  
Exposure to methamphetamines in utero with threat of injury:**

A child born addicted to amphetamine and methamphetamine suffered a threat of physical injury as a result of her mother's violation of Health and Safety Code § 11277 and is an eligible victim under the Victim Compensation Program although she is not a victim of Penal Code § 273a (child endangerment). However, requests for medical or mental health counseling expenses must be supported by evidence that the need for those expenses is a direct result of the qualifying crime.

*Precedent Decision No. 01-10, adopted 11/15/01.*

**III.  
COOPERATION WITH LAW ENFORCEMENT**

**Government Code § 13956(b)(1) (effective 1-1-03)**

*An application shall be denied if the board finds that the victim or where compensation is sought by or on behalf of a derivative victim, either the victim or derivative victim, knowingly and willingly participated in the commission of the crime that resulted in the pecuniary loss for which compensation is being sought pursuant to this chapter. However, this subdivision shall not apply if the injury or death occurred as a direct result of a crime committed in violating of Sections 261, 262 or 273.5 of or a crime of unlawful sexual intercourse with a minor committed in violation of subdivision (d) of Section 261.5 of the Penal Code.*

**Government Code § 13964(c) and (d) (repealed 12-31-02)**

*(c) No victim shall be eligible for assistance under this article under either of the following circumstances:*

*...*

- (2) The board finds that the victim failed to cooperate reasonably with a law enforcement agency in the apprehension and conviction of a criminal committing the crime. In the case of a minor, the board shall consider the minor's age, physical condition, and psychological state as well as any compelling health and safety concerns in determining whether the minor is eligible for assistance pursuant to this section.*

*(d) No derivative victim shall be eligible for assistance under this article under either of the following circumstances:*

*...*

- (2) The board finds that the victim or derivative victim failed to cooperate reasonably with a law enforcement agency in the apprehension and conviction of a criminal committing the crime.*

**A. Decided under Government Code § 13964(c) and (d)  
Insufficient evidence of failure to cooperate with law enforcement:**

Staff's repeated attempts to contact the investigating officer without success coupled with the applicant's apparently truthful testimony resulted in insufficient evidence to meet the Board's burden of proving that the applicant failed to cooperate with law enforcement.

*Precedent Decision No.01-04, adopted 8/10/01.*

**B. Decided under Government Code §§ 13964(c) and (d)  
Victim's medical condition balanced against refusal to answer law enforcement questions:**

The victim was not found to have failed to cooperate with law enforcement where after suffering a gunshot wound, the victim was questioned extensively by a police officer while awaiting emergency treatment. The officer delayed his being taken for x-rays, prevented his receiving pain medication and told him that she didn't care if he were bleeding to death.

The applicant became angry at the repeated questioning and used profanity to refer to the officer. The Board held that the victim's medical condition must be balanced against the victim's refusal to answer the officer's repeated questions.

*Precedent Decision No.01-04, adopted 8/10/01.*

**C. Decided under Government Code § 13964(c) and (d)  
Barriers to cooperation with Law Enforcement:**

The victim, who did not speak English, lived in a predominantly Korean community and worked for a Korean company, did not unreasonably fail to cooperate with law enforcement. The victim was found lying in the street with amnesia from his crime related injuries. Evidence indicated he was the victim of a robbery; however, he did not report this until three months after the crime occurred when his brother who was fluent in English came home from military service. The decision noted that the victim's amnesia would have prevented him from being able to provide additional information to law enforcement in any event.

*Precedent Decision 01-08, adopted 10/19/01.*

**D. Decided under Government Code § 13964(c) and (d)  
Victim's failure to cooperate with law enforcement is a bar to program eligibility:**

In contrast to precedent decision 01-04, the victim was found to have failed to cooperate where the victim answered some questions at the hospital but refused to answer additional questions when contacted by investigating officers two days later.

His explanation that he could not help the officers anyway because he did not know who hit him and that he did not cooperate because he would be unable to answer a public defender's questions about the identity of the assailant was not credible.

*Precedent Decision No. 01-06, adopted 10/19/01.*

**E. Decided under Government Code § 13964(c) and (d)  
Parent's duty to make children available for questioning:**

Father who was assaulted by his ex-wife's boy friend in the presence of his two sons, ages 6 and 4, did not unreasonably fail to cooperate with law enforcement by deciding not to go forward with prosecution after the detective who investigated the crime told him that the crime could only be prosecuted if the children testified. The crime had a negative impact on the children. The father consulted with the children's therapist, his attorney, his mother and his employer. All advised him that the children should not be asked to testify.

*Precedent Decision No. 01-05, adopted 9/28/01.*

**IV.  
DERIVATIVE VICTIM**

**Government Code § 13951(c), and 13955(c) (effective 1-1-03)**

*13951(c) "Derivative victim" means an individual who sustains pecuniary loss as a result of injury or death to a victim.*

*13955(c) If compensation is being sought for a derivative victim, the derivative victim is a resident of California or resident of another state, who is any of the following....*

**Government Code § 13960(a)(2)(B) (repealed 12-31-02)**

*(2) "Derivative victim" means a resident of California, or resident of another state, who is one of the following:*

*(B) At the time of the crime was living in the household of the victim.*

**A. Decided under Government Code § 13960(a)(2)(B)  
Grandmother living in the household of minor victim:**

Grandmother was the primary caretaker for her two granddaughters and provided the only home the girls had ever known. The girls occasionally visited their mother for days or even weeks in a nearby city. During one of these visits the mother's live-in boyfriend molested the girls. The grandmother "lived in the household of the victim" at the time of the crime and therefore qualifies as a derivative victim.

*Precedent Decision No. 02-02, adopted 10/25/02.*

**V.  
IN-HOME CARE**

**A. Decided under Government Code § 13964(a)  
Reimbursement of in-home care services:**

The need for in-home care services must be supported by sufficient medical documentation from a medical provider that describes the length of time the in-home care necessary, the number of hours and days per week the care is needed, and a recommendation that the care is necessary because the victim is unable to perform everyday tasks such as preparing meals, bathing and similar major life functions.

*Precedent Decision 04-02, adopted 4/23/04.*

**VI.  
INVOLVEMENT IN THE EVENTS LEADING TO THE CRIME**

**Government Code § 13956(c) (effective 1-1-03)**

*An application for compensation may be denied, in whole or in part, if the board finds that denial is appropriate because of the nature of the victim's or the applicant's involvement in the events leading to the crime or the involvement of the persons whose injury or death gives rise to the application. In the case of a minor, the board shall consider the minor's age, physical conditions, and psychological state, as well as any compelling health and safety concerns, in determining whether the minor's application should be denied pursuant to this section. The application of a derivative victim of domestic violence under the age of 18 years may not be denied under this subdivision.*

**Government Code § 13964(b) (repealed 12-31-02)**

*(b) An application for assistance may be denied, in whole or in part, if the board finds that denial is appropriate because of the nature of the victim's or other applicant's involvement in the events leading to the crime or the involvement of the persons whose injury or death give rise to the application. In the case of a minor, the board shall consider the minor's age, physical condition, and psychological state as well as any compelling health and safety concerns in determining whether the minor's application should be denied pursuant to this section.*

**A. Decided under Government Code § 13964(b)  
Sober passenger unaware that driver was under the influence:**

There was insufficient evidence that the passenger knew or should have known that the driver of a motorcycle on which she was a passenger was under the influence of alcohol. The evidence revealed that the passenger, who had never previously ridden a motorcycle, had been with the driver for only approximately 20 minutes prior to getting on the motorcycle. The evidence also showed that the driver did not drink in her presence, that she did not smell alcohol or otherwise suspect that he was intoxicated and that she planned only a short ride a few blocks around a golf course.

*Precedent Decision No. 01-07, adopted 10/19/01.*

**B. Decided under Government Code § 13964(b)  
Victim involved in selling drugs at the time of the crime:**

Victim's involvement in the events leading to the qualifying crime by selling drugs at the time he was shot and whose shooting was determined to be related to his selling illegal resulted in denial of his application.

*Precedent Decision No. 01-09, adopted 10/19/01.*

**VII.  
LATE APPLICATION**

**Government Code § 13953(a) (effective 1-1-03)**

*13953(a) An application for compensation shall be filed within one year of the date of the crime, one year after the victim attains 18 years of age, or one year of the time the victim or derivative victim knew or in the exercise of ordinary diligence could have discovered that an injury or death had been sustained as a direct result of crime, whichever is later.*

**Government Code § 13961 (repealed 12-31-02)**

*13961(c) The period prescribed for the filing of an application for assistance shall be one year after the date of the crime or one year after the victim attains the age of 18 years, whichever is later. The board may for good cause grant an extension of this time period not to exceed three years after the date of the crime or three years after the victim attains the age of 18 years.*

**A. Decided under Government Code § 13961  
Late Application:**

Lack of knowledge concerning the existence of the program does not constitute good cause for filing a late application.

*Precedent Decision No. 04/04, adopted 5/14/04.*

**VIII.  
MENTAL HEALTH REIMBURSEMENT**

**Government Code § 13957(a)(2) (effective 1-1-03)**

*Subject to the limitations set forth in Section 13957.2, reimburse the amount of outpatient psychiatric psychological, or other mental health counseling related expenses incurred by the victim or derivative victim, including peer counseling services provided by a rape crisis center as defined by Section 13837 of the Penal Code, and including family psychiatric, psychological, or mental health counseling for the successful treatment of the victim provided to family members of the victim in the presence of the victim whether or not the family member relationship existed at the time of the crime, that became necessary as a direct result of the crime, subject to the following conditions....*



**Government Code § 13956(a)(1)(A) (repealed 12-31-02)**

*(a)(a)(A) A victim is entitled to reimbursement for the expenses of their outpatient mental health counseling when that mental health counseling is necessary as a direct result of the crime not to exceed the amount of ten thousand dollars (\$10,000).*

**A. Decided under Government Code § 13965(a)(1)(A)  
Reimbursement of psychological evaluation ordered by family law court  
not an eligible expense:**

Victim requesting reimbursement for some of the cost of a psychological evaluation to assist the family court to determine visitation rights is not a direct result of the qualifying crime and is not covered by the Program.

*Precedent Decision No. 03-03, adopted 10/24/03.*

**B. Decided under Government Code § 13965(a)(1)(A)  
Derivative victim's mental health treatment must be directly related to the  
qualifying crime:**

The victim's mother requested reimbursement of additional mental health counseling expenses. The request was denied because the mother's mental health counseling focused on the mother's past sexual abuse, rather than her daughter's abuse.

*Precedent Decision 03-04, adopted 10/24/03.*

**IX.  
PECUNIARY LOSS**

**Government Code § 13951(e) and 13957(a)(1) (effective 1-1-03)**

*"Pecuniary loss" means an economic loss or expense resulting from an injury or death to a victim of crime that has not been and will not be reimbursed from any other source.*

**Government Code § 13960(d) (repealed 12-31-02)**

*(d) "Pecuniary loss" means the following expenses for which the victim or derivative victim has not been and will not be reimbursed from any other source:*

*(1) The amount of medical or medical-related expenses incurred by the victim, including in-patient psychological or psychiatric expenses, and including, but not limited to, eyeglasses, hearing aids, dentures, or any prosthetic device taken, lost, or destroyed during the commission of the crime, or the use of which became necessary as a direct result of the crime.*

*(2) The amount of outpatient psychiatric, psychological, or other mental health counseling related expenses which became necessary as a direct result of the crime.*

**A. Decided under Government Code § 13960(d)  
Pecuniary loss must be a direct result of the crime:**

The only expenses that can be paid are those where evidence supports the determination that the expense was incurred as a direct result of the qualifying crime.

*Precedent Decision No. 01-10, adopted 11/15/01.*

**B. Decided under Government Code § 13963(c)  
Reimbursement of chiropractic expenses:**

Compensation for chiropractic treatment are historically limited to six months in duration unless extenuating circumstances exist that would warrant extending that period. Regardless, reimbursement requires that treatment be medically necessary as a direct result of the qualifying crime.

*Precedent Decision No. 04-01, adopted 2/27/04.*

**X.  
QUALIFYING CRIME**

**Government Code § 13951(b)(1) (effective 1-1-03)**

*"Crime" means a crime or public offenses, wherever it may take place, that would constitute a misdemeanor or a felony if the crime had been committed in California by a competent adult.*

**Government Code § 13960(c) (repealed 12-31-02)**

*(c) "Crime" means a crime or public offense that would constitute a misdemeanor or a felony if committed in California by a competent adult which results in injury to a resident of this state, including a crime or public offense, wherever it may take place, when the resident is temporarily absent from the state. "Crime" includes an act of terrorism, as defined in Section 2331 of Title 18 of the United States Code, committed against a resident of the state, whether or not the act occurs within the state. No act involving the operation of a motor vehicle, aircraft, or water vehicle, which results in injury or death, constitutes a crime for the purposes of this article, except that a crime shall include any of the following:*

- (1) Injury or death intentionally inflicted through the use of a motor vehicle, aircraft, or water vehicle.*
- (2) Injury or death caused by a driver in violation of Section 20001 of the Vehicle Code.*
- (3) Injury or death caused by a person who is under the influence of any alcoholic beverage or drug.*
- (4) Injury or death caused by a driver of a motor vehicle in the immediate act of fleeing the scene of a crime in which he or she knowingly and willingly participated.*
- (5) Injury or death caused by a person in violation of subdivision (c) of Section 192 or Section 192.5 of the Penal Code.*

For the purpose of the limitations imposed by this article, a crime shall mean one act or series of related acts arising from the same course of conduct with the same perpetrator or perpetrators against a victim.

**A. Decided under Government Code § 13960(c)  
Motor vehicle accident & reckless driving:**

In appropriate circumstances a violation of Vehicle Code section 23104 (reckless driving) may be a qualifying crime. A violation of that section by itself is not sufficient to prove that a qualifying vehicle crime occurred.

However, where the underlying facts demonstrate that injury was intentionally inflicted through the use of a motor vehicle, the application may be approved.

*Precedent Decision No. 01-02, adopted 7/13/01.*

**B. Decided under Government Code § 13963(c)  
Approval may be based on crime other than that identified in the application:**

Although there was insufficient evidence that the crime identified in the application occurred, the application may be approved if it is determined that the victim is a victim of a qualifying crime even if it is not the crime for which the application was submitted.

*Precedent Decision No. 01-01, adopted 7/13/01.*

**C. Decided under Government Code § 13963(c)  
Exposure to methamphetamines in utero absent proof of injury:**

Application for child exposed to methamphetamines in utero had no detectable presence of illicit drugs in her system either at birth or at anytime prior to the closing of the administrative record and experienced no drug related physical injuries, was denied for insufficient evidence of physical injury or threat of physical injury. The decision distinguished a prior precedent decision of the Board, 01-10, M.S., applicant on behalf of A.A. (minor), where the Board found eligible a child who was born with serious physical injuries, and who was found to have illicit drugs in her system at birth.

*Precedent Decision No 03-01, adopted 3/20/03.*

**D. Decided under Government Code § 13960(a)(1)  
Exposure to methamphetamines in utero – threat of physical injury:**

A child born addicted to amphetamine and methamphetamine suffered a threat of physical injury as a result of her mother's violation of Health and Safety Code § 11277 and is an eligible victim under the Victim Compensation Program although she is not a victim of Penal Code § 273a (child endangerment).

However, requests for medical or mental health counseling expenses must be supported by evidence that the need for those expenses is a direct result of the qualifying crime.

*Precedent Decision No. 01-10, adopted 11/15/01.*

## **XI. REIMBURSEMENT SOURCE**

### **A. Decided under Government Code § 13960(d) Blocked Trusts:**

Justification must be submitted to the court for withdrawal of funds in a blocked account until applicants reach the age of eighteen. The program shall consider the amounts in the blocked accounts as a reimbursement source to be used to offset eligible pecuniary losses.

*Precedent Decision 03-05, adopted 11-21-03.*

## **XII. RELOCATION REIMBURSEMENT**

### **Government Code § 13957(a)(8) (effective 1-1-03)**

*Authorize a cash payment or reimbursement not to exceed two thousand dollars \$2,000 to a victim for expenses incurred in relocating, if the expenses are determined by law enforcement to be necessary for the personal safety of the victim or by a mental health treatment provider to be necessary for the emotional well being of the victim. When a relocation payment or reimbursement is provided to a victim of sexual assault or domestic violence and the identity of the offender is known to the victim, the victim shall agree not to inform the offender of the location of the victim's new residence and not to allow the offender on the premises at any time, or shall agree to seek a restraining order against the offender. The cash payment or reimbursement made under the subdivision shall only be awarded once to any victim, except that the board may under compelling circumstances award a second cash payment or reimbursement to the same victim if both of the of the following conditions are met.....:"*

### **Government Code § 13965(a)(4)(A) (repealed 12-31-02)**

*(a)(4)(A) "Relocation expenses" means authorization of a cash payment or reimbursement to a victim for expenses incurred in relocating, if the expenses are determined by law enforcement to be necessary for the personal safety of the victim or by a mental health provider for the emotional well being of the victim.*

### **A. Decided under Government Code § 13965(a)(4)(A) Relocation expenses not to be used for home deposit:**

Reimbursement of relocation expenses of the victim's personal safety and emotional well being is meant to assist the victim in leaving a dangerous environment, by providing immediate, critical relocation expenses such as rent, deposits, temporary lodging, food, and clothing. The relocation benefit may not be used as a deposit on a house.

The precedent decision identifies the intent of the Legislature, which is to help victims who need immediate assistance and who must flee a dangerous environment.

*Precedent Decision No. 03-02, adopted 10/24/03.*

**B. Government Code § 13957(a)(8) (effective 1-1-03)  
Relocation expenses must be directly related to the qualifying crime:**

The intent of the legislature in allowing reimbursement for relocation expenses is to allow the victim of violence to escape their abuser by relocating. The more time that elapses between the qualifying crime and relocation, the more scrutiny the board should apply to the nexus between the crime and date of the relocation.

*Precedent Decision No. 04/03, adopted 04-23-04.*

**XIII.  
VICTIM**

**Government Code §§ 13951(g), 13955, and 13955(f) (effective 1-1-03)**

*13951(g) "Victim" means an individual who sustains injury or death as a direct result of a crime as specified in subdivision (e) of Section 13955.*

*13955 Except as provided in Section 13956, a person shall be eligible for compensation when all of the following requirements are met:....*

*13955(f) As a direct result of the crime, the victim or derivative victim sustained one or more of the following...*

**Government Code § 13960(a)(1) (repealed 12-31-02)**

*(1) "Victim" means a resident of the State of California, a member of the military stationed in California, or a family member living with a member of the military stationed in California who sustains injury or death as a direct result of a crime.*

**A. Decided under Government Code § 13960(a)(1)  
Exposure to methamphetamines in utero – threat of physical injury:**

A child born addicted to amphetamine and methamphetamine suffered a threat of physical injury as a result of her mother's violation of Health and Safety Code § 11277 and is an eligible victim under the Victim Compensation Program although she is not a victim of Penal Code § 273a (child endangerment). However, requests for medical or mental health counseling expenses must be supported by evidence that the need for those expenses is a direct result of the qualifying crime.

*Precedent Decision No. 01-10, adopted 11/15/01.*

**B. Decided under Government Code § 13960(a)(1)  
Exposure to methamphetamines in utero – absent proof of injury:**

Application for child exposed to methamphetamines in utero had no detectable presence of illicit drugs in her system either at birth or at anytime prior to the closing of the administrative record and experienced no drug related physical injuries, was denied for insufficient evidence of physical injury or threat of physical injury. The decision distinguished a prior precedent decision of the Board, 01-10, where the Board found eligible a child who was born with serious physical injuries, and who was found to have illicit drugs in her system at birth.

*Precedent Decision No 03-01, adopted 3/20/03.*